

Application No.: 10/674,622

Docket No.: 66205-0001

**REMARKS**

Applicant has reviewed the detailed Office Action mailed March 24, 2005, and thanks Examiner Szumny for his review of the same. Claims 1-7 were rejected. Claims 1-2 have been amended. Claim 3 has been cancelled. New claims 11 and 12 have been added, but no new matter has been added. Thus, claims 1-2, 4-7 and 11-12 will be pending upon entry of this amendment. Applicant requests reconsideration of the pending claims in view of the above amendments and the following remarks.

**Claim Rejections Under 37 U.S.C. §1.112**

Claims 1-7 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 1 and 2 as suggested by the Examiner to clarify the scope of the invention. Withdrawal of the rejection is respectfully requested.

**Claim Rejections Under 35 U.S.C. 102**

Claims 1-3, 5 and 7 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,120,224 to Powell. Applicant respectfully traverses the rejection.

Independent claim 1 has been amended to positively recite that "each of the arms has at least one obstruction positioned adjacent a forward edge of the arm and spaced away from the affixing portion, the at least one obstruction extending upwardly from a top surface of the arm and being positioned on a portion of the arm on both sides of the at least one opening to resist accidental bottle disengagement, wherein the portion of the arm that the obstruction is positioned upon does not extend the entire width of the arm." This limitation is not shown or disclosed in the prior art.

In fact, Powell discloses a load lock rack kit 10 having a planar shelf-like supporting surface 22 where the shelf-like supporting surface 22 includes a plurality of openings 28 that extend from a front edge. Unlike the invention claimed in amended claim 1, Powell further includes an upwardly extending lip 36 that extends "along the front edge 24 of the shelf-like supporting surface 22." Col. 4, lines 7-19. Indeed, as shown in Figure 2 of Powell, the lip 36 extends the entire length between adjacent openings

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In contrast, Applicant's invention requires that the obstruction is positioned on only a *portion* of the arms, *adjacent* the forward edge, such that the obstruction does not extend the entire width of an arm. Because this feature is not taught or shown in the prior art, claim 1, as amended, is not anticipated. Moreover, the remaining pending claims that depend from amended claim 1 are similarly patentable over the prior art.

New claims 11 and 12 (which depend from now allowable claim 1) add additional features not shown in the prior art. For example claim 11 requires that the obstruction has a cylindrical shape. This feature is not taught in the prior art. Claim 12, which depends from claim 2, requires that two obstructions are positioned between adjacent openings, but that the obstructions are positioned such that a gap is formed between each adjacent obstruction. This feature is also not shown in the prior art.

#### **Claim Rejections Under 35 U.S.C. §103**

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Powell '224 in view of Wetterings et al. '673. Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Powell '224 in view of Flynn '504. Applicant respectfully traverses the rejections.

As set forth above in connection with the §102 rejection, Powell does not disclose that "each of the arms has at least one obstruction positioned adjacent a forward edge of the arm and spaced away from the affixing portion, the at least one obstruction extending upwardly from a top surface of the arm and being positioned on a portion of the arm on both sides of the at least one opening to resist accidental bottle disengagement, wherein the portion of the arm that the obstruction is positioned upon does not extend the entire width of the arm." In fact, Powell teaches away from such a construction by requiring an upwardly extending lip that extends the entire width of arms positioned between adjacent openings. Neither Wetterings et al., nor Flynn make up for the deficiencies of Powell. Accordingly, because claims 4 and 6 depend from allowable claim 1, claims 4 and 6 are allowable as well.

#### **CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Applicant refers to the fee transmittal accompanying this amendment. Please charge our Deposit Account No. 18-0013, under Order No. 66205-0001 from which the undersigned is authorized to draw.

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Respectfully submitted,

By 

Kristin L. Murphy

Registration No.: 41,212

RADER, FISHMAN & GRAUER PLLC

39533 Woodward Avenue, Suite 140

Bloomfield Hills, Michigan 48304

(248) 594-0647

Attorney for Applicant